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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,740	07/08/2003	John Frank Kralic	201144.00001	6209

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HAHN LOESER & PARKS, LLP  
One GOJO Plaza  
Suite 300  
AKRON, OH 44311-1076

EXAMINER
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WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/614,740

**Applicant(s)**

KRALIC, JOHN FRANK

**Examiner**

Alfred Joseph Wujciak III

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the first Office Action for the serial number 10/614,740, UTILITY POLE CROSS-ARM AND ASSOCIATED POLE-TOP HARDWARE, filed on 7/8/03.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28, 31, 34, 36, 38-50, 53 and 55-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 6,142,434 to Trost et al. and in view of Japan Patent # 411210271 A to Sagawa et al. et al.

Trost et al. teaches a cross arm (22) for a utility pole (12) having a fastening system. The fastening system includes clamping means (10). The clamping means is being secured to pole operative to extend about the cross arm. The clamping means includes a saddle/seat (46) that incorporates end portion of cross arm. The clamping means having a clamping force (44) for clamping about the pole. The saddle/seat secures the cross arm by mechanical fastening (86). The cross arm has an extension arm (14) extending upwardly from the cross-arm.

Trost et al. teaches the cross arm and extension arm but fails to teach the cross arm, extension arm and seat are formed of metallic and coated with insulatory coating. Sagawa et al. et al. teaches metallic structures (10 and 20, see abstract) coated with insulatory coating by

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polymeric material. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Trost et al.'s cross arm with metallic and coated with plastic insulating material as taught by Sagawa et al. et al. to increase the life cycle for the cross arm than wood material and to reduce electrical shock on the cross arm.

In regards to claim 34, Trost et al. in view of Sagawa et al. teaches the polymeric material but fails to teach the polymeric material is thermoplastic. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Trost et al. in view of Sagawa et al.'s polymeric material to thermoplastic to provide designer's preference for the kind of polymeric material to use as coating.

In regards to claim 43, Trost et al. teaches the extension arm but fails to show that the extension arm is hollow. Since the extension arm is mounted on a threaded fastener and that it would have been obvious for one of ordinary skill in the art at the time the invention was made to have extension arm hollow for the fastener to insert therein for convenience of mounting the extension arm on the cross arm.

In regard to claims 57-59, Trost et al. in view of Sagawa et al. teaches all elements above but fails to teach the use of elements in method. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have specified steps for elements in method to provide a convenience for setting up the cross arm on the pole.

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Claims 29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trost et al. and in view of Sagawa et al. and in further view of US Patent # 3,803,570 to Barlow et al.

Trost et al. in view of Sagawa et al. teaches the insulatory coating but fails to teach the coating having dielectric strength of greater than 10KV/mm. Barlow et al. teaches the coating having dielectric (40). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added dielectric to Trost et al. in view of Sagawa et al.'s coating as taught by Barlow et al. to reduce electric static on the cross arm.

Trost et al. in view of Sagawa et al. and Barlow et al. teaches the dielectric but fails to teach the dielectric having strength of greater than 10KV/mm. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have increased Trost et al. in view of Sagawa et al. and Barlow et al.'s dielectric strength greater than 10KV/mm to reduce elastic static on the cross arm.

Claims 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trost et al. and in view of Sagawa et al. and in further view of United Kingdom Patent Application 2,384,223 to Lowson.

Trost et al. teaches the cross-arm but fails to teach the cross-arm comprises a hollow steel section. Lowson teaches the cross-arm (2) comprises hollow steel section. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Trost et al.'s cross-arm with hollow steel section as taught by Lowson to reduce weight of cross-arm.

Claims 32 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trost et al. and in view of Sagawa et al. and in further view of US Patent # 2004/0035602 to White.

Trost et al. teaches the cross arm but fails to teach the cross arm comprises powder of the polymeric material. White teaches polyurethane powder for housing section (104, section 0025). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added powder of the polymeric material to Trost et al.'s cross arm as taught by White to reduce electric shock on the cross arm.

Claims 33, 35 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trost et al. and in view of Sagawa et al. and in further view of US Patent # 6,146,576 to Blackmore.

Trost et al. in view of Sagawa et al. teaches the coating but fails to teach coating is made of nylon material or epoxy (claim 35). Blackmore teaches the coating (16) made of nylon material. Furthermore, Blackmore teaches epoxy (col. 11, line 32). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Trost et al. in view of Sagawa et al.'s coating with nylon material/epoxy as taught by Blackmore to provide designer's choice of material for coating.

Claims 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trost et al. and in view of Sagawa et al. and in further view of US Patent # 6,464,196 to Crookham et al.

Trost et al. teaches the pole (12) but fails to teach the pole is made of steel. Crookham et al. teaches the pole (20) is made of steel. It would have been obvious for one of ordinary skill in

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the art at the time the invention was made to have modified Trost et al.'s pole with steel as taught by Crookham et al. to provide additional strength in the pole to withstand the bad storm.

***Response to Arguments***

Applicant's arguments filed 5/2/06 have been fully considered but they are not persuasive.

On page 6 of Remarks, the applicant states that he is confused that the Office Action of December 2, 2005 was made final and that the final office action contains new ground of rejection using new references. Since the applicant submitted amendment on 9/29/05 with amended claim language for independent claims, which require the examiner to perform additional searching and change the ground of rejection using new reference and the office action can be made as final, see MPEP 706.07(a).

With respect to applicant's argument on page 7 stating that "Sagawa et al taught nothing relevant to utility poles or cross arms for utility poles" and the applicant provided some translation from Sagawa et al.'s invention stating that it is used for various kinds of guard fences having pipe-like post 10, beam pipe 20 etc. The examiner believes that the applicant got the translation in error because elements 10 and 20 are not in the drawings (figure 1-3) and that the examiner provided translation based from Sagawa et al's abstract attached to the reference through mail, stating that the invention is used for steel power that supports a power transmission line having arm coated and insulated to prevent electric shock on snake or the like when crawling up the tower. Therefore Sagawa et al. teaches relevant invention with steel tower to utility poles or cross arms for utility poles.

In response to applicant's argument that Barlow is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Barlow's invention is directed to a soil moisture field measuring apparatus and is not relevant to utility poles or utility pole cross arms. The examiner is aware that Barlow teaches a different invention however the examiner used the material from Barlow with coating having dielectric to modify Trost et al. in view of Sagawa et al.'s coating and the examiner is not modifying entire invention of Trost et al.'s utility pole or utility arm with soil moisture field measuring apparatus.

On pages 10-11 of applicant's argument stating that Lowson's invention is a design of a trackway in a personal rapid transport system and that the invention has no relation to utility poles and the cross arms. The examiner disagrees with the applicant because Lowson teaches analogous art having cross arm mounted on a pole and that the examiner used Lowson's cross-arm with hollow steel section to modified with Trost et al.'s cross-arm to reduce weight of the cross-arm.

The applicant argues that Blackmore's invention is not relevant to Trost et al. and Sagawa et al. inventions. The examiner used Blackmore's material (nylon or epoxy) to replace with Trost et al. in view of Sagawa et al.'s coating to provide designer's choice of material for coating.

On page 11 of applicant's argument stating that Crookham et al. invention is not relevant to Trost et al in view of Sagawa's invention. Since Crookham et al. teach steel pole and that it is



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an obvious to have modified Trost et al. in view of Sagawa's pole to steel pole to increase strength in pole.

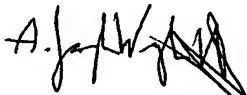
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III  
Examiner  
Art Unit 3632



5/12/06